

Date

Ms. Christina Carroll
Executive Counsel
New Orleans Civil Service Commission
Department of City Civil Service
1340 Poydras Street, Suite 900
New Orleans, Louisiana 70112

Re: Ethics Board Docket No. 2021-247

Dear Ms. Carroll:

The Louisiana Board of Ethics, at its June 4, 2021 meeting, considered your request for an advisory opinion regarding whether the employee member of the New Orleans Civil Service Commission ("Commission") is considered an appointed or elected official for purposes of the Code of Ethics.

FACTS PROVIDED

You stated that the Louisiana Constitution provides the guidelines for the election of the employee member on the New Orleans Civil Service Commission by the classified employees electing three nominees and the New Orleans City Council appointing the employee Commissioner from the list of three nominees. The Commission promulgated rules for the procedure mandated by the Constitution.

You stated that Commission Rule 12.4 provides that employees wishing to qualify may obtain the filing forms from the Civil Service Department and must submit them with or without a brief biographical sketch prior to the close of the qualifying period. Commission Rule 12.5 provides that the election of the nominees be by sealed ballot. Commission Rule 12.6 allows the employee to vote for three nominees. Commission Rule 12.7 provides how the tabulation of the votes will take place. Commission Rule 12.8 provides how the Civil Service Director will transmit the results of the three nominees who received the largest number of votes to the New Orleans City Council. Commission Rule 12.9 provides that the City Council shall make an appointment of one employee within 30 days of receiving the list of nominees or the person whose name appears first on the list shall be automatically appointed.

LAWS

La. R.S. 42:1102(9) defines "elected official" as any person holding an office in a governmental entity which is filled by the vote of the appropriate electorate. It shall also include any person appointed to fill a vacancy in such offices.

La. R.S. 42:1102(18) defines "public employee" to mean anyone, whether compensated or not, who is (i) an administrative officer or official of a governmental entity who is not filling an elective
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office. (ii) appointed by any elected official when acting in an official capacity, and the appointment is to a post or position wherein the appointee is to serve the governmental entity or an agency thereof, either as a member of an agency, or as an employee thereof. (iii) engaged in the performance of a governmental function. (iv) under the supervision or authority of an elected official or another employee of the governmental entity.

CONCLUSION

The Board concluded, and instructed me to inform you, that the employee member of the New Orleans Civil Service Commission is an appointed member of a board or commission and such employee member is **not** an elected official for purpose of the Louisiana Code of Governmental Ethics.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Governmental Ethics. Please note that the Board issues no opinion as to past conduct, and that the Board's expressed opinion is limited to an examination of the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Acts, and the conflict of interest provisions in the gaming laws.

If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

Tracy M. Barker
For the Board

No party may rely on the facts or conclusions. The analysis and conclusions are subject to change or revision at the meeting of the Board of Ethics.

DISCLAIMER

This is a draft opinion and it is NOT an opinion of the Louisiana Board of Ethics. This document is provided for informational purposes only and should not be relied upon for any legal or other purposes.